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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/075,861  
Filing Date: February 14, 2002  
Appellant(s): MESERTH ET AL.

\_\_\_\_\_  
Brandon C. Kennedy  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 4/13/10 appealing from the Office action mailed 11/30/09.

**(2) Related Appeals and Interferences**

The following are the related appeals, interferences, and judicial proceedings known to the examiner which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal:

Appeal No. 2008-2296 on this case 10075861 with a decision rendered 11/19008

**(3) Status of Claims**

The following is a list of claims that are rejected and pending in the application:

Claims 1-21 are finally rejected under 35 USC 103 Takahashi in view of Venolia.

**(4) Status of Amendments After Final**

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

**(5) Summary of Claimed Subject Matter**

The examiner has no comment on the summary of claimed subject matter contained in the brief.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

**(7) Claims Appendix**

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

**(8) Evidence Relied Upon**

5999162	Takahashi	12-1999
2008/0204477	Venolia	8-2008

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi et al., US Patent 5999162, and further in view of Venolia, US Patent Application Publication 2008/0204477.

Takahashi et al. teaches an icon as a portion of the display (winding-up position line, Figure 10) determining the position of the icon (predetermined) and refreshing the graphical representation responsive to receiving a new data point (Column 4, lines 45-53), wherein the position of the icon determines how much historical data is retained in the refreshed display (Column 2, lines 11-20). While Takahashi et al. teaches refreshing the display where the amount of information to be retained is based on a user determined position, they fail to show the user positionable icon as a portion of the

display as recited in Claims 1 and 8. In the same field of the invention, Venolia teaches a graphical display with data adjustment similar to that of Takahashi et al. In addition, Venolia further teaches the user positionable icon as a portion of the display (Fig. 5 and corresponding text). It would have been obvious to one of ordinary skill in the art, having the teachings of Takahashi et al. and Venolia before him at the time the invention was made, to modify refreshing of the display where the amount of information to be retained is based on a user determined position taught by Takahashi et al. to include the user-positionable icon of Venolia, in order to obtain an interface for controlling the amount of information to be retained when the screen is refreshed. One would have been motivated to make such a combination because an interactive and runtime control for setting the desired display area would have been obtained, as taught by Venolia.

As in Claims 2 and 9, Takahashi teaches the graphical representation to be refreshed when the graphical representation is full (Column 2, lines 15-21).

As in Claims 3 and 10, Takahashi teaches shifting all data points horizontally by a displacement, the displacement determined by the position of the icon ("moving the teaches a user-positionable icon as a portion of the display controlling the amount of information to be retained onscreen (Figure 5 with corresponding text and par. 47, 81). graph to a predetermined position toward the one end of the display screen", Column 2, lines 14-16).

As in Claims 4 and 11, Takahashi teaches appending a new data point to the display without discarding any historical data when the display is not full (Column 2, lines 15-21).

As in Claims 5 and 12, Takahashi teaches the position of the icon determining the location of the first new data point occurring after the display is refreshed (Column 7, lines 42-47).

As in Claims 6 and 13, Takahashi teaches the representation including a left side vertical axis and a right side vertical axis, wherein data points in proximity to the left-side vertical axis are older than data points in proximity to the right-side vertical axis (Column 5, lines 7-14, Figures 10-11 and corresponding text).

As in Claims 7 and 14, Takahashi teaches the positioning of the icon at the left-side vertical axis will erase all historical data when the representation is refreshed and wherein positioning of the icon at the right side vertical axis will erase a single data point when the representation is refreshed (Columns 7-8, lines 61-6, respectively).

As in Claim 15, Takahashi teaches an icon as a portion of the display (winding-up position line, Figure 10) determining the position of the icon (predetermined) and refreshing the graphical representation responsive to receiving a new data point (Column 4, lines 45-53), wherein the position of the icon determines how much historical data is retained in the refreshed display (Column 2, lines 11-20). While Takahashi teaches refreshing the display where the amount of information to be retained is based on a user determined position, they fail to show the user positionable

icon as a portion of the display moveable along the horizontal axis as recited in Claim 15. In the same field of the invention, Venolia teaches a realtime graphical display with a horizontal axis representing time and the vertical axis representing a parameter of interest and data adjustment similar to that of Takahashi. In addition, Venolia further teaches a user-positionable icon as a portion of the display controlling the amount of information to be retained onscreen moveable along the horizontal axis (Figure 5 and corresponding text). It would have been obvious to one of ordinary skill in the art, having the teachings of Takahashi and Venolia before him at the time the invention was made, to modify refreshing of the display where the amount of information to be retained is based on a user determined position taught by Takahashi to include the user-positionable icon of Venolia, in order to obtain an interface for controlling the amount of information to be retained when the screen is refreshed. One would have been motivated to make such a combination because an interactive and runtime control for setting the desired display area would have been obtained, as taught by Venolia (Col. 1, lines 27 et seq.).

As in Claim 16, Takahashi teaches the graphical representation to be refreshed when the graphical representation is full (Column 2, lines 15-21).

As in Claim 17, Takahashi teaches shifting all data points horizontally by a displacement, the displacement determined by the position of the icon ("moving the graph to a predetermined position toward the one end of the display screen", Column 2, lines 14-16).

As in Claim 18, Takahashi teaches appending a new data point to the display without discarding any historical data when the display is not full (Column 2, lines 15-21).

As in Claim 19, Takahashi teaches the position of the icon determining the location of the first new data point occurring after the display is refreshed (Column 7, lines 42-47).

As in Claim 20, Takahashi teaches the representation including a left side vertical axis and a right side vertical axis, wherein data points in proximity to the left-side vertical axis are older than data points in proximity to the right-side vertical axis (Column 5, lines 7-14, Figures 10-11 and corresponding text).

As in Claim 21, Takahashi teaches the positioning of the icon at the left-side vertical axis will erase all historical data when the representation is refreshed and wherein positioning of the icon at the right side vertical axis will erase a single data point when the representation is refreshed (Columns 7-8, lines 61-6, respectively).

#### **(10) Response to Argument**

Takahashi et al. teaches an icon displayed in Fig. 10 that signifies the winding-up position line, the predetermined position of this line (also referred to as the winding up position) determines how much historical data is retained in the refreshed display



(Column 2, lines 11-20) when a new data point is received (Column 4, lines 45-53).

While Takahashi et al. teaches refreshing the display where the amount of information to be retained is based on position, they fail to show this position line is controlled by a user positionable icon that is displayed as a portion of the display as recited in Claims 1 and 8. The predetermined horizontal winding up position can be set by the operator as indicated by Col 10, lines 44-46 of Takahashi.

In the same field of the invention, Venolia teaches a graphical display of Figure 5, with data adjustment such that a magnification slider along a scale slider, ref. 11, 16 (user positionable icon) displayed as a portion of the display can zoom in on the timeline as described in Paragraph 47, therefore displaying less data as some months are now left off or zoom out on the timeline displaying more data as in more months or years are displayed when the movement of the slider refreshes the display (determines the amount of data displayed on the refreshed display). Par. 47: "As control knob 16 slides up vertical bar 15, the sale of timeline 14 increases (i.e., the amount of time covered by the timeline increases), thereby decreasing the resolution of timeline 14."

Takahashi is available as a reference in this case, but only under the conditions set by the BPAI opinion. The opinion states that Takahasi teaches the end result of moving the graphical representation when refreshed to retain a predetermined amount of historical data about a determined predetermined position but does not teach the predetermined position to be icons that are positionable by the user. Takahashi teaches moving the graphical representation when refreshed around a predetermined position set somehow by the system (winding-up position).

As stated above the examiner contends It would have been obvious to one of ordinary skill in the art, having the teachings of Takahashi et al. and Venolia before him at the time the invention was made, to modify refreshing of the display where the amount of information to be retained is based on a user determined position taught by Takahashi et al. to include the user-positionable icon of Venolia, in order to obtain an interface for controlling the amount of information to be retained when the screen is refreshed. One would have been motivated to make such a combination because an interactive and runtime control for setting the desired display area would have been obtained, as taught by Venolia.

In response to the appellant's arguments, the examiner notes that they are in agreeance that Takahashi does not teach display of a user positionable icon, such that the position of said icon determines the amount of historical data is retained in the refreshed display screen. The examiner contends above that Takahasi does teach a user positionable (Col. 10, lines 44-46) line aka the winding up position (takahasi is silent as to whether or not it is actually displayed), such that the position of the winding up position line determines the amount of historical data is retained in the refreshed display screen (Par. 47).

In response to the appellant's arguments regarding Venolia beginning on page 8 of the submitted brief: the examiner notes that the elements claimed to be missing from Venolia are the ones already cited as having been taught by Takahashi. The arguments state. "Venolia's display relating to the scale however is not graphical display of real time data" (part of the preamble, taught by Takahashi as seen above) " and there

is no disclosure that the display is refreshed responsive to a new data point." (also disclosed by takahashi above). Venolia discloses the element that Takahashi is missing: display of a user positionable icon, such that the position of said icon determines the amount of historical data is retained in the refreshed display screen (Par. 47).

**(11) Related Proceeding(s) Appendix**

Copies of the court or Board decision(s) identified in the Related Appeals and Interferences section of this examiner's answer are provided herein.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/SARA ENGLAND/

Primary Examiner, Art Unit 2179

Conferees:

/Weilun Lo/

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/Ba Huynh/

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